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THE ROLE OF JUDICIARY IN ADVANCING GENDER EQUALITY IN INDIA

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Abstract

This research paper explores the vital role played by the Indian judiciary in promoting gender equality through judicial activism, progressive interpretation of constitutional provisions, and landmark decisions. The judiciary has been instrumental in dismantling patriarchal norms entrenched in laws and societal practices. Through a doctrinal analysis of key cases and critical evaluation of judicial interventions, the paper evaluates the successes, limitations, and evolving role of courts in achieving gender justice.

Keywords

Judiciary, Gender Equality, Constitutional Law, Women's Rights, Judicial Activism, Supreme Court of India

1. Introduction

Gender equality is enshrined in the Constitution of India, particularly under Articles 14, 15, and 21. However, due to historical social inequalities and patriarchal structures, gender discrimination remains a persistent challenge. In this context, the Indian judiciary has played a transformative role in interpreting the Constitution and various laws in a manner that promotes gender justice. This paper analyses judicial pronouncements that have significantly influenced the legal landscape concerning gender equality.

2. Landmark Judicial Decisions

Indian courts have consistently addressed gender injustices through landmark rulings:

- In **Vishaka v. State of Rajasthan** (1997), the Supreme Court laid down guidelines on sexual harassment at the workplace.
- **Joseph Shine v. Union of India** (2018) decriminalized adultery, recognizing it as a relic of gender bias.
- **Navtej Singh Johar v. Union of India** (2018) struck down Section 377 IPC, decriminalizing consensual homosexual acts.
- **Shayara Bano v. Union of India** (2017) led to the abolition of the practice of instant triple talaq.
- In **Independent Thought v. Union of India** (2017), the marital rape exception was struck down for girls aged 15 to 18.

3. Role of Judicial Activism in Advancing Gender Justice

The Indian judiciary has often filled legislative and executive voids to protect fundamental rights, especially where the state has failed to act. The courts have adopted an expansive interpretation of rights under Article 21 to include dignity, privacy, bodily autonomy, and reproductive rights. Public Interest Litigations (PILs) have further enabled marginalized groups to access justice.

4. Challenges and Limitations

Despite its active role, the judiciary faces criticism for delayed justice, inconsistent reasoning, and occasional lack of enforcement. Gender sensitization among the judiciary, especially in lower courts, remains a concern. Moreover, while courts can strike down unjust laws, they depend on legislative and executive action for effective implementation.

5. Conclusion and Suggestions

The Indian judiciary has significantly contributed to advancing gender equality, yet judicial intervention alone cannot substitute for comprehensive legislative reform and societal transformation. The judiciary must continue to champion gender-sensitive jurisprudence, and work in tandem with other organs of the state to uphold constitutional morality and ensure inclusive justice.